

STATE OF NEBRASKA
TITLE 298 - NEBRASKA ADMINISTRATIVE CODE
RULES AND REGULATIONS
NEBRASKA REAL ESTATE APPRAISER BOARD

As Adopted

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TITLE 298 NAC - NEBRASKA REAL ESTATE APPRAISER BOARD

CHAPTER 1 DEFINITIONS; APPLICABILITY; EFFECTIVE DATE

001 Definitions of terms used in this Title, unless the context otherwise requires, shall be as stated in the Real Estate Appraiser Act (hereinafter referred to as "the Act"), and further definitions shall be as follows:

001.01 Client shall mean any party for whom an appraiser performs any real estate appraisal activity.

001.02 Review appraiser or reviewer shall mean any person who reviews the work of an appraiser, rendering an opinion as to the adequacy or appropriateness of the report or value conclusion.

001.03 Broker's price opinion shall mean an analysis, opinion, or conclusion prepared by a person licensed under the Nebraska Real Estate License Act in the ordinary course of his or her business relating to the price of specified interests in or aspects of identified real estate or identified real property for the purpose of listing, purchase, or sale.

001.04 Comparative market analysis shall mean an analysis, opinion, or conclusion prepared by a person licensed under the Nebraska Real Estate License Act in the ordinary course of his or her business relating to the price of specified interests in or aspects of identified real estate or identified real property by comparison to other real property currently or recently in the marketplace for the purpose of listing, purchase, or sale.

001.05 Real estate appraisal practice shall mean the work or services performed by appraisers, defined by three terms in the Uniform Standards of Professional Appraisal Practice: appraisal, review, and consulting.

Comment: These three terms are intentionally generic, and not mutually exclusive. For example, an opinion of value may be required as part of a real property review or a real property consulting assignment. The use of other nomenclature by an appraiser (e.g., analysis, counseling, evaluation, study, submission, valuation) does not exempt an appraiser from adherence to these standards. [Uniform Standards of Professional Appraisal Practice (1999)]

001.06 Negligence shall mean "The failure to use such care as a reasonably prudent and careful person would use under similar circumstances. [Black's law dictionary (1979)]

002 References in this Title to § 76-2201, et seq., shall refer to sections of the Act, as contained in the Neb. Rev. Stat., as amended.

003 The standards and regulations set forth in this Title shall apply to every person who engages in any real estate appraisal activity in the State of Nebraska, except as exempted under § 76-2221.

004 This Title shall apply to all persons providing real estate appraisal services, and to all real estate appraisal activities in the State of Nebraska from and after January 1, 1991.

CHAPTER 2 STANDARDS OF PRACTICE

001 Pursuant to NEB. REV. STAT. § 76-2237, the board shall adopt and promulgate rules and regulations which may conform to the generally accepted standards of professional appraisal practice and generally accepted ethical rules to be observed by a real estate appraiser as evidenced by the Uniform Standards of Professional Appraisal Practice. Under the authority of NEB. REV. STAT. § 76-2223 (12)(13) the board shall review, establish, and adopt such rules and regulations annually. The 2005 edition of the Uniform Standards of Professional Appraisal Practice is adopted and attached as the formal rules and regulations governing professional appraisal practice in the state of Nebraska and incorporated herein by reference as Attachment A. A copy of such standards will be supplied with the issuance of each new registration, license, residential certificate or general certificate. Every real estate appraiser shall comply with these rules and regulations. Certified copies of the Uniform Standards of Professional Appraisal Practice are on file and available for public inspection in the office of the Real Estate Appraiser Board and may be examined in the office of the Secretary of State.

002 Every real estate appraiser registered, licensed, certified residential, or certified general by the State of Nebraska shall keep the Board informed of the appraiser's principal place of doing business and shall immediately notify the Board of any change of such address or telephone number.

003 No advertisement by an appraiser registered, licensed, certified residential, or certified general by the State of Nebraska shall use a name of an appraiser other than as stated on the appraiser's registration, license, residential certificate, or general certificate; and no advertisement shall state any address other than the most current address provided by the appraiser to the Board.

004 When disclosing a contingent fee arrangement pursuant to §76-2247.01 and Title 298 NAC, Chapter 2.001, and the Ethics Provisions and Rules, and Standards 4 and 5 of the Uniform Standards of Professional Appraisal Practice, a registered, licensed, certified residential, or certified general appraiser shall do so in a clear and unequivocal manner in any oral report, and in the letter of transmittal, summary of salient facts and conclusions, statement of limiting conditions, and certifications of any written report.

The Real Estate Appraiser Board has chosen not to require specific contingent fee disclosure language, believing that practitioners will use language appropriate to each situation. However, the Board recommends the following language as being a "safe harbor":

[Name of individual] has been retained to provide consulting services and is being compensated in whole or part on the basis of [state the basis of the contingency, such as achieving a property tax savings through a reduction in valuation for assessment, achieving a change in zoning, approval of a development plan, etc.]. This disclosure of a contingent fee arrangement is intended to comply with the requirements of Nebraska law, Title 298 of NAC Rules of the Nebraska Real Estate Appraiser Board, and the Uniform Standards of Professional Appraisal Practice.

CHAPTER 3

APPRAISER TRAINEES

001 Appraiser trainees shall be subject to the requirements and standards as established in Chapters 2 and 3 of this Title.

002 The appraiser trainee shall work under the direct supervision of a registered, licensed, certified residential, or certified general appraiser.

003 All appraisal reports relating to the appraisal of real estate located in the State of Nebraska must be signed by the responsible supervising real estate appraiser who is registered, licensed, certified residential, or certified general by the State of Nebraska. An appraiser trainee may cosign a report on an assignment for which the trainee substantially assisted. A trainee's signature must identify such person as a trainee.

004 Appraiser trainees may not advertise. Any advertising in the name of the registered, licensed, certified residential, or certified general appraiser with whom the trainee is associated which lists the names of the advertised appraisers may include the name of a trainee by clearly identifying such person as a trainee. This section shall not prohibit a trainee's use of standard business cards, which clearly identify such person as a trainee.

005 Supervising real estate appraisers shall teach their trainees fundamentals of appraisal and the ethics and standards of the profession, and generally supervise all appraisal activities of their trainees, and shall not allow a trainee to sign any report unless the trainee has provided substantial assistance in the appraisal assignment.

006 Trainee experience may be credited toward required hours of experience, provided a work product log is maintained and contribution of the trainee is acknowledged within the appraisal report cited on the log.

CHAPTER 4

EDUCATION ACTIVITIES; APPROVAL; RESTRICTIONS

001 Only educational courses and activities approved by the Board pursuant to this Title shall qualify for inclusion in the number of classroom hours required by the Act for eligibility for registration, licensure, residential certification, or general certification as a real estate appraiser or for eligibility for renewal of a registration, license, residential certificate, or general certificate.

001.01 Credit for the classroom hour requirement may be obtained from colleges or universities, community or technical colleges, real estate appraisal or real estate-related organizations, state or federal agencies or commissions, proprietary schools, other providers approved by the state certification/licensing agency, the Appraiser Qualifications Board (AQB) course approval program.

1. For qualifying education, distance education is defined as any educational process based on the geographical separation of learner and instructor (e.g., CD ROM, on-line learning, correspondence courses, video conferencing etc.) For qualifying education distance education must provide interaction between the learner and instructor and include testing.

2. A distance education course, including correspondence courses, may be acceptable to meet the classroom hour requirement or its equivalent, provided that the course is approved by the state certification/licensing authority and meets one of the following conditions:

a) The course is presented by an accredited (Commission on Colleges or a regional accreditation association), college or university that offers distance education programs in other disciplines; and

i) The learner successfully completes a written examination proctored by an official approved by the college or university; and

ii) The course meets the requirements for qualifying education established by the Appraiser Qualifications Board and is equivalent to the minimum of 15 classroom hours; or

b) The course has received the American Council on Education's Program on Non-collegiate Sponsored Instruction (ACE/PONSI) approval for college credit; or has been approved under the AQB Course Approval Program; and

i) The learner successfully completes a written examination proctored by an official approved by the presenting entity; and

ii) The course meets the requirements for qualifying education established by the Appraiser Qualifications Board and is equivalent to the minimum of 15 classroom hours.

002 Each course of study to be included in the number of hours required for registration, licensure, residential certification, or general certification must be conducted by an accredited university, college, technical community college, or junior college, an appraisal society, institute, or association, or such other educational provider as may be approved by the Board. Additionally, providers of such courses of study must comply with the Nebraska Private Postsecondary Career Schools Act, NEB.REV.STAT § 85-1601, et seq.

003 Criteria for approval of instructors of appraisal courses of study shall be as follows:

003.01 All instructors must meet the qualifications established pursuant to any other applicable law and the qualification standards as established by the Board and cited herein:

003.01A A Masters degree or higher, which is directly related to the subject matter being taught.

OR

003.01B A Bachelors degree or higher, provided the degree is in an area traditionally associated with the subject matter of appraisal, including related courses such as Business, Economics, Marketing, Accounting, Finance; and experience in real estate appraisal as evidenced by a valid appraiser's registration, license, residential certificate, or general certificate or three years of registered, licensed, certified residential, or certified general appraisal experience, such as fee and staff appraisal, appraisal analysis, ad valorem tax appraisal, review appraisal, feasibility analysis or study.

OR

003.01C A highly qualified professional with a generally recognized professional designation from a professional appraisal organization and two years of education from a post secondary institution.

OR

003.01D A Bachelors or higher degree in education and valid teacher certification in the individual's resident jurisdiction and extensive appraisal experience as evidenced by a valid appraiser's registration, license, residential certificate, or general certificate, or three years of experience as a registered, licensed, certified residential, or certified general real estate appraiser.

OR

003.01E Extensive instructional background in real estate appraisal education and expertise in course being taught. In addition, instructor must have experience in real estate appraisal as evidenced by a valid appraiser's registration, license, residential certificate, or general certificate or three years of experience as a registered, licensed, certified residential, or certified general real estate appraiser.

OR

003.01F There may be circumstances under which experience not requiring a real estate appraiser registration, license, residential certificate, or general certificate could be substituted in the standards for instructors.

003.02 Temporary approval of instructor may be granted in an emergency situation.

003.03 The Board may not approve, may not reapprove, or may withdraw approval of instructors for, but not limited to, the following reasons:

- 1.) Falsification of information on the application forms;
- 2.) Loss of appraiser's registration, license, residential certificate, or general certificate when needed as part of approval;
- 3.) Incompetence.

003.04 Renewal of instructor approval will take place every three years beginning with date of approval or on appropriate dates as determined by the Board. Renewal may take place after a review of information supplied on forms issued by the Board. These forms will request appropriate information regarding the instructional and other professional activities of the preceding three years.

003.05 Instructors of the Uniform Standard of Professional Appraisal Practice seminar and course must be trained and certified by examination by the Appraiser Qualification Board through the Appraisal Foundation.

004 Criteria for approval of appraisal courses of study for meeting the minimum education standards for registration, licensure, residential certification, or general certification shall be as follows:

004.01 The provider must submit to the Board a properly completed application for approval of an education offering on forms provided by the Board at least 60 days prior to the first scheduled class session and prior to advertising such course of study or accepting any tuition or fees for enrollment, and the provider must meet all other applicable laws.

004.02 The provider shall require full attendance at all sessions by all students at each class session and shall take attendance at all sessions. Full attendance shall mean attendance for at least 90 percent of each class session;

004.03 The course of study shall cover one or more of the topics listed at Section 005 of Chapter 5 of this Title. If the course of study is intended to be a complete course to meet the requirements for registration, licensure, residential certification, or general certification, the course shall include all such topics and provide the hours of study as required in Chapter 5 of this Title; and

004.04 Each course of study shall be at least 15 hours of class time, not to exceed eight hours per day; and the student must successfully complete an examination pertinent to such course at the end of the class time.

004.05 In addition to courses of study directly approved by the Board, the Board may accept education obtained in courses of study held in another jurisdiction in which courses have been approved to meet the education requirements for registration, licensure, residential certification, or general certification of an appraiser of such other jurisdiction, if that jurisdiction has adopted and enforces standards for the education of real estate appraisers which are equivalent to the standards established by this Title.

005 Criteria for approval of continuing appraisal education activities shall be as follows:

005.01 The continuing education activity must contribute to the maintenance and improvement of the quality of real estate appraisal service provided to the public;

005.02 Each in-class continuing education activity must consist of at least three (3) in-class clock hours but no more than eight (8) in-class clock hours in any one day of instruction;

005.03 The provider must submit a complete application as prescribed by the Board at least 60 days prior to the beginning of the continuing education activity and the provider must meet all other applicable laws;

005.04 The provider shall require full attendance by all students at each class session and shall take attendance at all sessions. Full attendance shall mean attendance for at least 90 percent of each class session;

005.05 The following activities shall not be used toward meeting the continuing education requirement:

005.05A Those which are specifically examination preparation in nature;

005.05B Those which deal with office or business skills, such as typing, speed reading, memory improvement, body language, motivation, and similar activities;

005.05C Those which are completed by a challenge examination (testing out of the activity);

005.05D Meetings held in conjunction with an appraisal firm's general business;

005.05E Orientation courses;

005.05F Continuing education activities taken prior to approval date of the continuing education activity; and

005.05G Continuing education activities of the same content, or if in the opinion of the Board an activity is so similar as to be indistinguishable in content, it cannot be used for a minimum of four years after its use toward meeting the continuing education requirement.

005.05H An exception to the rule applies to study of the National Uniform Standards of Professional Appraisal Practice, updates of which shall be repeated in no less than 7-hour segments in each two-year continuing education cycle.

005.05I Continuing education activities taken to make up a deficiency of the continuing education requirement from a previous continuing education period may not be used toward the current period's continuing education requirement.

006 In addition to continuing education activities directly approved by the Board, the Board may accept continuing education activities conducted in another jurisdiction in which the activity is approved to meet the continuing education requirements for renewal of an appraiser registration, license, residential certificate, or general certificate in such other jurisdiction, if that jurisdiction has adopted and enforces standards for education which are equivalent to the standards established by this Title.

007 All approved continuing education activities shall be resubmitted for approval and reviewed every three years by the Board unless substantial changes are made in the activity prior to that time. If such changes are made, the activity shall be submitted for review and approval at least 60 days prior to intended offering of the revised curriculum.

008 For purposes of determining the qualified hours of all educational offerings, an hour shall mean 60 minutes, at least 50 minutes of which shall be devoted to actual classroom instruction and no more than 10 minutes of which shall be devoted to a recess. At least a one-half hour break shall be given to students by no later than the end of four hours of class in any day.

009 Decisions of the Board to deny approval of providers or activities, may be reviewed by the Board when such review is requested within 20 days of notification of denial. The Board may at any time reevaluate an approved provider or activity. If a basis for reconsideration of denial or revocation of approval is found, the Board shall notify the provider by mail at least 20 days prior to holding a hearing on the denial or revocation, and such review shall be held in the same manner as provided for complaints as set forth in Chapter 9 of this Title.

010 After initial approval, approval of a substantial change, or renewal of approval of an educational activity, the provider shall submit to the Board, at least 30 days in advance of offering the activity, a notice of the scheduling of the activity in a form prescribed by the Board.

011 Each provider shall keep attendance records in a manner intended to insure full-time attendance by students.

012 A document certifying satisfactory completion must be issued to each student upon completion of the course of study or continuing education activity. The document shall display all information required by the Board, including, but not be limited to, name of provider, signature of provider and/or instructor, name of course, course number, hours of credit, dates of course or education activity, pass or fail statement, and name of student. Such certification shall not be required if the provider has transcript capabilities.

013 Complete and accurate records shall be established and maintained by each provider, as prescribed by the Board, for each individual student for five years.

014 An alphabetical listing of the names and addresses of students who have met the requirements of completion at an education activity approved by the Board shall be submitted to the Board within 90 days of the conclusion of the activity. Such listing shall constitute the provider's certification that the list includes only attenders who have met all attendance, completion, and examination requirements. Such certification shall not be required if the provider has transcript capabilities.

015 All providers of appraiser education courses of study related to the requirements for initial registration, licensure, residential certification, or general certification shall submit, with their request for approval of each course, a non-refundable fee of \$50. All providers of continuing education courses shall submit, with their request for approval of each course, a non-refundable fee of \$25. A non-refundable fee of \$10 shall be submitted with each application for three-year renewal of each continuing education activity.

016 By January 31 of each year, provider must submit a list of all courses and seminars taught in Nebraska during the prior year.

017 Nothing in this Chapter shall be construed to preclude educational offerings sponsored or conducted by the Board from being accepted toward meeting the continuing education requirement of the Act.

CHAPTER 5

EDUCATION AND EXPERIENCE REQUIREMENTS

001 To qualify for registration, licensure, residential certification, or general certification, an individual must complete education requirements of the core curriculum established for each classification:

001.01 To qualify for registration the candidate must satisfactorily complete at least 75 class hours in courses of study which are tested and selected from a core curriculum approved by the Board. The core curriculum shall include at least 15 hours of study directly involving the Uniform Standards of Professional Appraisal Practice as adopted by the Board; at least 30 hours of course work must be in the fundamentals of appraisal; 30 additional hours must be selected from Board-approved core curriculum topics which shall include: applied appraisal practice in either residential application or general application, highest and best use analysis, legal consideration, sales comparison approach, income approach, cost approach, valuation process, collecting property data and confirmation, real estate markets and analysis, appraising single family residence, and other offerings from approved core curriculum appraisal course lists.

001.02 To qualify for licensure, the candidate must satisfactorily complete at least 90 class hours in courses of study which are tested and selected from a core curriculum approved by the Board. The core curriculum shall include at least 15 hours of study directly involving the Uniform Standards of Professional Appraisal Practice as adopted by the Board; at least 30 hours of course work must be in the fundamentals of appraisal or higher level; 15 additional hours in either report writing or form preparation. An additional 30 hours must be selected from core curriculum appraisal topics which may include residential or general appraisal course work. Topics may include highest and best use analysis, property description, legal consideration, sales comparison approach, income capitalization, cost approach, valuation process, collecting property data and confirmation, real estate markets and analysis, appraising single family residence, and other offerings from approved core curriculum appraisal course lists.

001.03 To qualify for residential certification, the candidate must satisfactorily complete at least 120 class hours in courses of study which are tested and selected from a core curriculum approved by the Board. Ninety hours shall be required core curriculum courses and shall include at least 15 hours of study directly involving the Uniform Standards of Professional Appraisal Practice; 30 hours of appraisal fundamentals or higher level; 30 hours of income capitalization; and either 15 hours in report writing or 15 hours in residential form preparation. The additional 30 hours must be selected from core curriculum topics which may include: residential case studies, applied residential practice, residential appraisal, investment analysis, litigation, valuation of partial interests, highest and best use analysis, property description, legal consideration, sales comparison approach, income approach, cost approach, valuation process, collecting property data and confirmation, real estate markets and analysis, appraising single family residence.

001.04 To qualify for general certification, the candidate must satisfactorily complete at least 180 class hours in courses of study which are tested and selected from a core curriculum approved by the Board. One-hundred and twenty hours shall be required and shall include at least 15 hours of study directly involving the Uniform Standards of Professional Appraisal Practice; 30 hours of appraisal fundamentals or higher level; 30 hours of non-residential appraisal course work; 30 hours of income property valuation; and either 15 hours in narrative report writing or 15 hours in commercial form preparation. An additional 30 hours must be selected from core curriculum topics which may include: advanced appraisal, case studies in commercial or agricultural appraisal, applied income property valuation, agricultural property appraisal, commercial appraisal, litigation, valuation of partial interests, highest and best use analysis, property description, legal consideration, sales comparison approach, income approach, cost approach, valuation process, collecting property data and confirmation, real estate markets and analysis. An additional 30 hours may be selected from approved core curriculum appraisal courses.

001.05 To qualify for renewal of a registration, license, residential certificate, or general certificate, the appraiser must satisfactorily complete at least 28 hours of continuing appraisal education in each two-year period, beginning January 1, 1998. At any time during the two-year continuing education period the appraiser may complete all or part of the required education hours. The two-year continuing education period for all new appraisers begins with the next January 1st following initial registration, licensure, residential certification, or general certification. All such education must be in activities which have received prior approval of the Board.

001.06 At least once every four years, beginning January 1, 1995, an update seminar of no less than seven hours, covering the Uniform Standards of Professional Appraisal Practice, shall be included in the continuing education requirement of each registered, licensed, certified residential, and certified general real estate appraiser.

002 Approved appraisal pre-registration, pre-license or pre-certification courses also may be used toward meeting the continuing education requirement, except that such courses may not be retaken and counted for a period of four years. When an individual seeks a different appraiser classification than that held, credit awarded for the classroom hour requirement also may be awarded for the continuing education requirement. Also, the Uniform Standards of Professional Appraisal Practice course, when successfully taken as continuing education, may be counted subsequently as pre-license or pre-certification education. The examination for such course must have been taken and passed within two years of application to count for pre-licensing or pre-certification education. For initial credentialing the appraisal fundamentals course must have been completed successfully with a passing score within five years of application. No course may be counted more than once for meeting the pre-registration, pre-license, or pre-certification education requirement; and no course may be counted if it is substantially the equivalent of any other course, which has been counted for such purposes.

003 Instructors of approved appraisal continuing education activities may use such instruction toward meeting the continuing education requirement, subject to all other restrictions set forth in this Title. Instructors of registration, pre-license or pre-certification courses may use such instruction to meet personal requirements for license/certification education. No course may be counted more than once in any four year period, with the exception of instruction of the Uniform Standards of Professional Appraisal Practice, which may be repeated in no less than 7-hour segments in each two-year continuing education cycle. No more than fifty percent of required education credit may be acquired through instruction.

004 Full-time attendance shall be required at all educational activities to be included toward either the minimum education or continuing education requirements.

005 To meet the education requirements for registration, licensure, residential certification, or general certification the applicant must demonstrate coverage of each of the following topics:

- | | |
|---------------------------------------|--|
| a. Influences on real estate value; | i. Appraisal math and statistics; |
| b. Types of value; | j. Income approach; |
| c. Legal considerations in appraisal; | k. Sales comparison approach; |
| d. Economic principles; | l. Site value; |
| e. Highest and best use analysis; | m. Valuation of partial interest; |
| f. Valuation process; | n. Cost approach; |
| g. Real estate markets and analyses; | o. Appraisal statistical concepts; and |
| h. Property description; | p. Appraisal standards and ethics. |

005.01 A passing score, established by the Board, must be achieved by applicants for registration, licensure, residential certification, and general certification on a uniform examination endorsed by the Appraisal Qualifications Board.

005.02 A passing score on the general certification examination will be accepted as a passing score on examinations for registration, license, or general certification. A passing score on the residential certification examination will be accepted as a passing score on the examination for residential certification, license, and registration.

005.03 Candidates for appraisal classification who take the uniform examination in another state must meet the scoring requirements of the state in which the examination is given.

006 Applicants for licensure, residential certification, or general certification must demonstrate, on forms provided by the Board, that they have met the appraisal experience requirements established at §§ 76-2230 (4), 76-2231.01 (4) and 76-2232 (4). Each applicant will be required to furnish, under oath, a listing of his/her appraisal experience for each year for which experience is claimed. Candidates for licensure must submit three appraisal reports for review. Candidates for residential certification must submit three residential appraisal reports, including one two-to-four unit residential property, one residence of 0 to 20 years, and one 20 year or older residence. Candidates for general certification must submit three appraisal reports on income producing properties, two of which include all three approaches to value. Reports will not be returned. The Board may require applicants to submit additional details or to submit samples of appraisal reports or file memoranda prepared by the applicants, and the Board may seek verification of the applicant's experience from other persons.

007 Each applicant's experience for licensure, residential certification, or general certification will be based upon the number of hours of appraisal activity. To qualify for licensure an applicant shall demonstrate, over no less than a 24-month period, at least 2,000 hours of appraisal experience acceptable to the board. To qualify for residential certification an applicant shall demonstrate, over no less than a 24-month period, at least 2,500 hours of appraisal experience acceptable to the board. The experience shall include at least 1,500 hours in residential appraisal work. To qualify for general certification an applicant shall demonstrate, over no less than a 30-month period, at least 3,000 hours of appraisal experience acceptable to the board. The experience shall include at least 1,500 hours in non-residential appraisal work.

008 An applicant's experience shall be subject to review and determination of acceptability by the Board as to hours and areas of experience. Acceptable appraisal experience may include the following areas or a combination from the following areas:

- | | |
|------------------------------|---------------------------------------|
| a. Fee and staff appraisal; | d. Appraisal analysis; |
| b. Ad valorem tax appraisal; | e. Highest and best use analysis; and |
| c. Review appraisal; | f. Feasibility analysis or study. |

The Board may accept other areas of experience upon demonstration by the applicant that such experience directly relates to training and improvement of skills used in the actual practice of real estate appraisal and conforms with the Uniform Standards of Professional Appraisal Practice.

CHAPTER 6

APPLICATIONS FOR REGISTRATION/LICENSURE/CERTIFICATION

001 Each applicant for issuance of a registration, license, residential certificate, or general certificate to engage in real estate appraisal activities in the State of Nebraska shall comply with the following requirements:

001.01 The applicant shall submit a complete application on forms supplied by the Board, showing compliance by the applicant with all registration, licensing, residential certification, or general certification requirements established by the Act or by this Title.

001.02 The applicant shall pay a non-refundable application fee of \$100, and any additional fees which may be established by the Board to compensate for additional costs of reviewing supplementary appraisal reports or file memoranda presented by the applicant in resubmission of the application to verify and confirm experience in conformity with the Uniform Standards of Professional Appraisal Practice.

A fee for review of reports shall relate to the costs involved and shall not exceed the following:

- a. The fee for appraisal review for licensure shall be no more than \$200.00.
- b. The fee for appraisal review for residential certification shall be no more than \$250.00.
- c. The fee for appraisal review for general certification shall be no more than \$300.00.

001.03 The application fee shall be valid for one full year from the date application is approved by the Board. The applicant who does not complete the application process by passing the examination and paying the appropriate annual fee within the prescribed time shall be required to file a new application, meeting any new requirements established after expiration of the prior application.

001.04 Any applicant required to take an examination shall pay an examination fee established by the Board, not to exceed the following:

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|---|-------|
| a. Examination for registration: | \$100 |
| b. Examination for licensure: | \$200 |
| c. Examination for residential certification: | \$200 |
| d. Examination for general certification: | \$200 |

002 Before any registration, license, residential certificate, or general certificate will be issued or renewed, the applicant must pay an annual non-refundable fee established by the Board, not to exceed the following:

- | | |
|---------------------------------------|-------|
| a. Fee for registration: | \$100 |
| b. Fee for licensure: | \$200 |
| c. Fee for residential certification: | \$300 |
| d. Fee for general certification: | \$300 |

plus any additional fees which may be established under the provisions of the Federal Institutions Reform, Recovery, and Enforcement Act of 1989. The registration, license, certified residential, or certified general fee shall be an annual fee.

003 All real estate appraiser registrations, licenses, residential certificates, and general certificates shall be in effect until December 31 following the date of issuance and shall expire on that date, unless revoked, suspended, or cancelled prior to such date. Renewal applications shall be made on forms provided by the Board, and fees shall be paid no later than November 30 of each year.

004 Any registered, licensed, certified residential, or certified general real estate appraiser who fails to submit a properly completed renewal application by November 30 of any year, but who submits such an application before the following July 1, may receive a renewal registration, license, residential certificate, or general certificate by submitting such application with the renewal fee, plus a late fee of \$25 per month or part of a month.

005 Any registered, licensed, certified residential, or certified general real estate appraiser who fails to submit a properly completed renewal application before July 1 following the expiration date shall not be eligible for renewal and must submit an application for a new registration, license, residential certificate, or general certificate, which shall include documentation of successful completion of a 15-hour Uniform Standards of Professional Practice course within two months of new application. Applicant shall be subject to the examination requirements of the Act and of this Title.

006 Any person who continues to perform real estate appraisal activities or related activities subject to the Act following the date of expiration of a registration, license, residential certificate, or general certificate shall be in violation of the Act and of this Title. Such person shall be subject to any restrictions and penalties provided by the Act or by this Title; and any application by such person for registration, licensure, residential certification, or general certification shall be subject to all requirements for issuance of a new registration, license, residential certificate, or general certificate.

007 Any person who on January 1, 1991, held a current real estate appraiser's license in good standing issued in Nebraska shall be eligible for registration if application for conversion to registration is made prior to November 1, 1991. Any such person who does not make application for conversion to registration prior to July 1, 1992, shall meet all requirements for initial registration, licensure, residential certification, or general certification.

008 The fee for a certificate of good standing may not exceed \$10.00 as authorized by § 76-2250.

CHAPTER 7 EXAMINATIONS

001 The Board will provide for the examination of applicants for a real estate appraiser's registration, license, residential certificate, or general certificate at least two times per year. The Board may provide additional examinations as the Board determines a necessity.

002 The date, time, and location for examinations shall be established by the Board with the intent to give all interested persons reasonable advance notice of upcoming examinations.

003 Any person who is determined to have not passed an examination shall have the right to appeal such determination to the Board within 20 days of notification of failure to pass the exam, and such appeal shall be heard by the Board, in the manner set forth for Complaints in Chapter 9 of this Title.

004 The Board may provide for examinations to be administered and graded by one or more educational testing service. The format, content, and method of administration of examinations, and passing standards, shall be as determined by the Board.

005 Upon payment of the application fee and determination that the application is complete and accurate and that the applicant is qualified for examination, the applicant will be notified in writing of the procedure for enrolling for the next available examination, and location of examination site. The applicant will submit the required examination fee to the test administrator.

006 Any applicant who does not pass the examination may submit the required fee to the test administrator and retest within one year of the date application is approved by the Board.

007 Each applicant shall follow the rules imposed by the administrator of the examination. No applicant shall receive or give any assistance during an examination. Violation of these rules shall be reason for denial of a registration, license, residential certificate, or general certificate.

008 In compliance with the Americans with Disabilities Act, reasonable accommodation will be provided all applicants; and the Board may authorize an examination to be administered to an individual orally or by other technique.

CHAPTER 8
NONRESIDENT AND TEMPORARY
REGISTRATION/LICENSURE/CERTIFICATION

001 A nonresident seeking or holding a registration, license, residential certificate, or general certificate to engage in appraisal activities in the State of Nebraska shall comply with all requirements of this Act and this Title, except as specifically provided in this Title.

002 A nonresident registration, license, residential certificate, or general certificate will be issued to an individual who is registered, licensed, certified residential, or certified general or otherwise authorized to appraise real estate and real property under the laws in his/her resident state, territory, or district upon:

- a. submitting a properly completed application on forms provided by the Board, together with the non-refundable application fee of \$100; and
- b. furnishing a verification letter to the Board from the regulatory authority of such person's state of domicile showing that:
 - i. the nonresident is registered or holds a license, residential certificate, or general certificate in resident state, territory, or district or other jurisdiction; and
 - ii. the nonresident's registration, license, residential certificate, or general certificate is in good standing and no complaint against such person is pending, or states the nature and status of any pending disciplinary proceeding; and
 - iii. sufficient proof that resident state, territory, or district enforces appraisal activity requirements which are substantially equivalent to the requirements of the State of Nebraska. This proof may be waived by the Board if an agreement has been entered into by the Board with the authority of such jurisdiction, recognizing that such state, territory, or district enforces requirements which are substantially equivalent to the requirements of the State of Nebraska and providing for reciprocal registration, licensing, residential certification, or general certification between the two jurisdictions; and
- c. payment of the registration, licensure, residential certification, or general certification fee in the same amount as established by the Board under Section 002 of Chapter 6 of this Title.
- d. The Board may waive the residence requirement under special residency circumstances.

003 Any nonresident may be issued a registration, license, residential certificate, or general certificate in this state without a registration, license, residential certificate, or general certificate issued by any other jurisdiction upon meeting all application requirements of the Act and of this Title.

004 A nonresident may obtain a temporary registration, license, residential certificate, or general certificate to engage in real estate appraisal activities in the State of Nebraska for a specific assignment for a period not exceeding six months from the date of issuance, upon submitting a properly completed application on forms provided by the Board, and meeting all requirements for nonresident registration, licensure, residential certification, or general certification as set forth above in Section 002(b) of this Chapter. The applicant shall submit, with the application, a non-refundable application fee of \$100. Before the temporary registration, license, residential certificate or general certificate will be issued, the applicant must pay a non-refundable fee established by the Board, not to exceed the following:

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|---|-------|
| i. Fee for temporary registration: | \$ 50 |
| ii. Fee for temporary licensure: | \$100 |
| iii. Fee for temporary residential certification: | \$150 |
| iv. Fee for temporary general certification: | \$150 |

CHAPTER 9

INVESTIGATIONS AND DISCIPLINARY PROCEEDINGS

001 The Board will not enter into disputes over the valuation or evaluation of any property.

002 All registered, licensed, certified residential and certified general real estate appraisers and all applicants for registration, licensure, residential certification, or general certification in the State of Nebraska shall be subject to the complaint procedures established by this Chapter for any alleged violations of the standards established by this Title, or for any violation of § 76-2238 or any other provisions of the Act or of this Title. Such procedure shall not suspend or preclude any other proceedings otherwise allowed by the Act or by other law.

003 Complaints shall be in writing and signed, setting forth in clear and concise language the alleged violations of the Act or the Rules and Regulations of the Board.

004 The board may, upon its own motion, and shall, upon receipt of a written complaint, investigate the actions of the registered, licensed, certified residential, or certified general real estate appraiser against whom the complaint is made to determine whether or not there is evidence of a violation. The Board may obtain technical or investigatory assistance. All persons appointed to assist with investigating and hearing the matter shall report their findings, in writing, to the Board for final determination by the Board.

005 In conducting an investigation, and prior to making a determination as to whether or not a formal hearing should be held on the complaint, the Board may, in its discretion, request the person who is under investigation to answer the charges in writing or to appear before the Board to voluntarily and informally discuss the alleged violation.

006 If the investigation reveals that there is not good cause to believe that the complaint involves the violation of the Act or a violation of the Rules and Regulations promulgated by the Board, the complaint will be dismissed without a formal hearing.

007 If the investigation discloses a probability that the actions of the person under investigation would constitute a violation, and that such acts may be such as to justify disciplinary action against such person, the Board may enter into a consent agreement or negotiated settlement. If agreement or settlement is not entered into, a formal complaint may be prepared by the Board. The formal complaint shall require the respondent to answer the complaint within 30 days of the date of service. The Board will cause such formal complaint to be served upon the respondent by personal service or certified mail, and proof of such service shall be filed in the proceedings.

008 Following the expiration of the answer date on a formal complaint, the Board may appoint an administrative hearing officer. A formal hearing on the allegations in the complaint filed shall be scheduled for hearing by the Board at the time and place prescribed by the Board and in accordance with the Administrative Procedure Act. The hearing shall be not less than 30 days or more than 120 days after the answer date. Notice of hearing shall be given to the complainant and to the respondent by certified United States mail, postage prepaid, at least ten (10) days prior to the hearing and shall notify the complainant and the respondent of the date, time, and place of hearing.

009 The Chair or Vice Chair shall be empowered to rule on all pre-hearing motions.

010 Evidence which is admissible in civil actions under the Nebraska Rules of Evidence is admissible before the Board. While the Board is not bound to follow the technical rules of evidence, unless request is made pursuant to NEB.REV.STAT. § 84-914, the record shall be supported by evidence which possesses probative value commonly accepted by reasonable persons in the conduct of their affairs.

011 Opening statements and oral arguments may be permitted by the Board in its discretion. All hearings will be recorded, and the recording will be preserved until determination on the complaint is final.

012 The Board will mail to the respondent a copy of its order at the time the same is entered.

013 Disciplinary actions which may be taken shall include revocation, suspension, probation, admonishment, letter of reprimand, and formal censure, with or without publication, of the registered, licensed, certified residential, or certified general real estate appraiser and may or may not include an education requirement. Any order of the Board denying, suspending, or revoking any application, registration, license, residential certificate, or general certificate, or otherwise taking any disciplinary action, shall be accompanied by findings of fact to support such order, a statement of the specific violations or grounds for such action, and any conclusions of law. Any such order may also include the imposition of reasonable costs to be paid by the person subjected to such discipline.

014 The chairperson or vice chairperson shall be empowered to compel the attendance of witnesses and the production of books, documents, and records and other papers. Such chairperson, vice chairperson, or a designated hearing officer shall be empowered to perform all other functions necessary for conducting hearings.

015 The decision and order of the Board shall be final. Any decision or order of the Board may be appealed. The appeal shall be on questions of law only and otherwise shall be in accordance with the Administrative Procedure Act.

016 Nothing in this Chapter shall limit or preclude the Board in the performance of its investigatory duties under the Act.